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HOME DEPOT U.S.A., INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LEE MANGANO, an individual,

Plaintiff,

vs.

HOME DEPOT U.S.A. INC., a
Delaware corporation, and DOES 1-50,

Defendants.

Case No.

**NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. §§ 1441 AND 1446(b)
BASED ON DIVERSITY OF
CITIZENSHIP UNDER 28 U.S.C. § 1332**

JURY TRIAL DEMANDED

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant HOME DEPOT U.S.A., INC.

(hereinafter "HOME DEPOT"), by and through its counsel, hereby removes the above-captioned action from the Superior Court of the State of California, in and for the County of Santa Clara, to the United States District Court, Northern District of California, for the reasons described below:

1. HOME DEPOT is the sole named Defendant in a civil action pending against it in the Santa Clara County Superior Court, entitled *Lee Mangano vs. Home Depot USA, Inc.*, Case No. 20CV369449.

2. Attached hereto as **Exhibit A** is a true and correct copy of the Complaint. HOME DEPOT U.S.A., INC. timely filed an Answer to the Complaint. (**Exhibit B.**) A filed-endorsed copy of the Answer will be provided to the Court once received.

3. Venue is proper in this Court because the boundaries of the United States District Court for the Northern District of California, pursuant to 28 U.S.C. § 84(b)

1 include Santa Clara County.

2 4. Following the filing of this Notice of Removal of Action, written notice of
3 this filing will be served on counsel for Plaintiff and will be filed with the Clerk of the
4 Superior Court of California for the County of Santa Clara, in accordance with 28 U.S.C.
5 § 1446(d).

6 JURISDICTION

7 5. This is a civil action over which this Court has original jurisdiction under
8 28 U.S.C. § 1332. This case may be removed to this Court by HOME DEPOT pursuant to
9 the provisions of 28 U.S.C. §§ 1441(b) and 1446 in that it is a case that could have been
10 commenced in federal court based on diversity of citizenship.

11 6. Diversity jurisdiction applies for the following reasons:

12 a. At all times relevant to removal jurisdiction, Plaintiff is and was a
13 resident of the State of California. (**Exhibit C.**)

14 b. Both at the time that this action was commenced and at this time,
15 HOME DEPOT U.S.A., INC. was incorporated in Delaware and has its principal place of
16 business in Georgia. HOME DEPOT U.S.A., INC.'s corporate offices are located in
17 Atlanta, Georgia, where its finance, accounting, purchasing, treasury, marketing, training,
18 human resources, information systems, internal audit, and legal departments are located,
19 making policy decisions that affect the entire company. “[P]rincipal place of business’
20 refers to the place where a corporation’s officers direct, control, and coordinate the
21 corporation's activities... i.e., the ‘nerve center.’” (*Hertz Corp. v. Friend*, 130 S.Ct. 1181,
22 1184 (U.S., 2010).) “For purposes of removal... the citizenship of defendants sued under
23 fictitious names shall be disregarded.” (28 U.S.C. §1441(a).)

24 c. Plaintiff has made a settlement demand of over \$3.8 million.
25 (Excerpt from Demand Letter attached as **Exhibit D.**) Accordingly, the amount in
26 controversy between the parties exceeds the \$75,000.00 threshold specified in 28 U.S.C.
27 § 1332(a).

28 7. Based on the foregoing, the matter is removable pursuant to 28 U.S.C.

1 §§ 1332 and 1446(b).

2 WHEREFORE, the undersigned requests that the action described above be
3 removed in its entirety to this Court for all further proceedings pursuant to 28 U.S.C.
4 § 1441, et seq.

5 **DEMAND FOR JURY TRIAL**

6 Defendant demands a jury trial of 8 jurors pursuant to Federal Rules of Court,
7 Rule 48.

8 DATED: January 13, 2021

GOODMAN NEUMAN HAMILTON LLP

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10 By: 

JOSHUA S. GOODMAN
ZACHARY S. TOLSON
Attorneys for Defendant
HOME DEPOT U.S.A., INC.

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